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Linda McCulloch
Superintendent

DATE: December 27, 2001

TO: School Food Authority Administrators

FROM: Christine Emerson, Director
School Nutrition Programs

SUBJECT: School Food Authorities (SFAs) and Federal Procurement Regulations

The USDA has issued a statement that serious violations may be occurring in the procurement of computer software used in school meals programs. Specifically, school officials may be issuing procurement documents drafted by potential bidders.

USDA regulations prohibit any person that develops or drafts specifications, requirements, statements of work, invitations for bid, requests for proposals, contract terms and conditions or other documents for use by a state, school or institution conducting a procurement under the Child Nutrition Programs from competing for such procurement transactions. This provision is found in 7 CFR Part 3016.60.

The USDA recognizes and understands that SFA officials have broad discretion when gathering information for developing specifications. However, information provided by potential bidders must be appropriately modified by school officials to be classified as tailored specifications, otherwise these bidders must be excluded from competing for such procurements.

Additionally, contracts with individuals or companies which are debarred, suspended, ineligible, or voluntarily excluded from participating in lower tier covered transactions and not eligible to receive federal funds are prohibited. If there is concern that certification may be erroneous, SFAs should refer to the U.S. Government Services Administration [Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs](#). This federal list may be accessed at: www.arnet.gov/epls.

Vendors that have been debarred or suspended from doing business with the State of Montana may not enter into contracts with state agencies until the debarment or suspension period has expired. (See Section 18-4-241, MCA and ARM 2.5.402.) A current list of debarred or suspended vendors can be accessed at: <http://www.discoveringmontana.com/doa/ppd/debarred.htm>.

Please call Christine Emerson, School Nutrition Director, at (406) 444-2502 or Holly Humphrey, School Nutrition Specialist, at (406) 444-4413 if you have any questions.

